



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,771	11/04/2003	Marlene C. Schwarz	12013/53907	5897

23838 7590 06/15/2007  
KENYON & KENYON LLP  
1500 K STREET N.W.  
SUITE 700  
WASHINGTON, DC 20005

EXAMINER
----------

LAMB, BRENDA A

ART UNIT	PAPER NUMBER
----------	--------------

1734

MAIL DATE	DELIVERY MODE
-----------	---------------

06/15/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/699,771	<b>Applicant(s)</b> SCHWARZ ET AL.	
	<b>Examiner</b> Brenda A. Lamb	<b>Art Unit</b> 1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3/05/2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 48-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 56 and 61 is/are allowed.
- 6) ☒ Claim(s) 48-55 and 57-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 48, 50, 55 and 57-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alkan et al in view of Gronholz et al.

Alkan et al teaches the design of an apparatus for coating a medical implant as shown in Figure 1. Alkan et al apparatus is comprised of the following elements: a coating chamber or cavity which is defined by funnel 1; a vibration source, the vibration source adapted to suspend or levitate a medical device in the coating chamber; and a coating source, the coating source is positioned

Art Unit: 1734

above the screen 3 to introduce coating into the coating chamber wherein the coating source includes a nozzle 13 which provides a exit point for the coating in communication with the coating chamber and the nozzle is coupled to a supply of coating wherein the source of coating contains a material which may be therapeutic and wherein the vibration source is positioned below a screen 3 which is arranged in the lower portion of the coating chamber defined by funnel 1, and wherein the vibration source is adapted to generate pressure waves of compressible fluid containing enough energy to lift or levitate a medical device positioned in the coating chamber away from the screen 3 and to agitate or mix ingredients therein. Alkan et al source of coating material includes a material which can be therapeutic (see Example 3). Alkan et al fails to teach the vibration source is exposed to or is laid open to or fluid communication with the coating chamber. However, Gronholz et al teaches the design of a mixing apparatus which is comprised of a chamber 1 and an acoustic or stereo speaker which is comprised of an air-tight diaphragm wherein the speaker is in fluid communication or exposed to chamber 1 via air tube 4 and one end of the air tube is connected to a connection plate 5 which is sealingly placed on the opening of the loudspeaker 6 and the other end of the tube is sealingly connected to chamber 1 such that is air column located between the diaphragm and the surface of the liquid in chamber 1 is oscillated so as to mix the contents within chamber 1. Further, Gronholz et al teaches the air column located diaphragm and the surface of the liquid in chamber 1 is oscillated in accordance

Art Unit: 1734

with the frequency and amplitude of the diaphragm speaker and the frequency and amplitude of the diaphragm speaker is adjustable.

Therefore, it would have been obvious to modify the Alkan et al apparatus by substituting its stereospeaker assembly 7-9 with that disclosed by Gronholz et al which includes an air tight diaphragm and connect its air tube 4 to the Gronholz stereo speaker assembly (elements 6-8) via connection plate for the obvious advantage of facilitating maintenance – the use of a connecting plate rather than a glue to connect the air tube to the stereo speaker assembly would enable one to more easily remove the air tube 4 from the stereo speaker assembly. Thus claims 48,50,55 and 57-59 are obvious over the above cited references. With respect to claim 60, Alkan et al shows that the coating area is a partially enclosed space.

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alkan et al in view of Holt.

Alkan et al is applied for the reasons noted above. Alkan et al fails to teach a coating filter coupled to the coating chamber. However, it would have been obvious to modify the Alkan et al apparatus by providing a coating filter which is operatively coupled to the coating chamber through the coating nozzle such as taught by Holt for the obvious reason to prevent plugging of the coating nozzle.

Claims 48, 50,55 and 57-60 rejected under 35 U.S.C. 103(a) as being unpatentable over Alkan et al in view of Gronholz et al, Zingerman and Opalski.

Art Unit: 1734

Alkan et al and Gronholz et al are applied for the reasons noted above. The same rejection applied to claims 48, 50, 55 and 57-60 as discussed above. Alkan et al source of coating material includes a material which can be therapeutic (see Example 3). In any event, it would have been obvious to modify the Alkan et al apparatus to connect the coating nozzle to a source of therapeutic material since Opalski spray coating medical devices with coating that includes therapeutic agents and other coating components (see column 12 lines 48-49 and lines 1-5) and Zingerman teaches coating tablet with materials which can obviously can provide a therapeutic benefit dependent on end use requirements of article (tablet or pill or granule) being coated.

Claims 48, 50-55 and 57-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berg et al 5,464,650 in view of Alkan et al and Gronholz et al.

Alkan et al and Gronholz et al are applied for the reasons noted above. The same rejection applied to claims 48 and 50 is applied here. Alkan et al and Gronholz et al each fail to teach the coating chamber contains a medical device such as stent or a plurality medical devices. However, Berg et al teaches spray coating the stents or medical devices with a solution which leaves a therapeutic material onto the stent after the coated stent is dried. Berg et al teaches the preferability of using an airbrush to spray the coating on the stent (see column 4 lines 19-34). Therefore, it would have been modify the Berg et al airbrush coating system by using an airbrush airbrushing coating system such ~~the~~ the modified

Alkan et al coating system for the taught advantage of the Alkan et al coating system as modified – greater control of the amount of coating applied to the substrate. Thus claims 48, 50-55 and 57-60 are obvious over the above cited references.

Applicant's arguments filed 3/05/2007 have been fully considered but they are not persuasive.

Claims 56 and 61 are allowed.

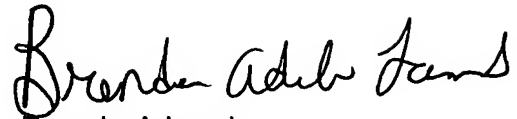
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda A. Lamb whose telephone number is (571) 272-1231. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday. The examiner can also be reached on alternate Wednesdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla, can be reached on (571) 272-1231. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

Art Unit: 1734

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Brenda A Lamb". The signature is fluid and cursive, with the first name "Brenda" being the most prominent part.

Brenda A Lamb  
Examiner  
Art Unit 1734